

REMARKS

Claims 19 and 27 have been amended to specify that the holding polymer is present in the composition in an amount of from about 0.04% to less than 1.5% active. It is respectfully submitted that this amendment overcomes the rejection of the claims as indefinite. New claims 31 and 32 specify that the holding polymer is present in the composition in an amount of from about 0.04% to about 1.25% active; support for same is provided in the specification at page 6, paragraph 3.

In view of this amendment and the remarks that follow, allowance of the subject claims is respectfully requested.

Pursuant to the Office Action of January 24, 2005, claims 19-25 and 27-30 stand rejected under 35 U.S.C. §103(a) as unpatentable over Peffly (US 5,985,294) in view of Samain et al. (US 6,511,651) ("Samain") and Maurin et al. (US 6,403,542) ("Maurin").

As noted in the Amendment dated October 14, 2004, the inventors found that effective hair styling compositions can be formulated at low holding polymer concentrations using the described holding polymer (i.e., a polymer which comprises a monomer combination of vinyl caprolactam, methacrylamidopropyl dimethylamine and vinylpyrrolidone as described by claim 19 and a polymer comprising a monomer combination of methacrylamidopropyl dimethylamine and vinylpyrrolidone as described by claim 27) and polysaccharide, when specific holding polymer to polysaccharide ratios are employed. The Examiner is directed to the arguments previously submitted regarding the criticality of the holding polymer to polysaccharide ratio.

Peffly discloses any of numerous holding polymers, but fails to specifically teach a terpolymer of polyvinylpyrrolidone, vinylcaprolactam and dimethylaminopropyl dimethyl amine. Moreover, its disclosed range of hair styling polymer is extremely

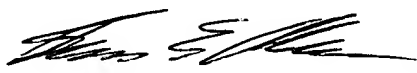
broad (from about 0.01% to about 20%), as is its listing of suitable styling polymers (see column 3, line 61 to column 5, line 24), the listing including materials ranging from various Polyquaterniums, (meth)acrylate copolymers, PVP copolymers, and vinyl acetate copolymers. It is respectfully submitted that Peffly fails to provide an enabling disclosure as to how to achieve effective curl retention at the very low holding polymer levels of the subject claims (i.e., from about 0.04 to less than 1.5% active) using VP-containing holding polymers. Example III of Peffly contains 1.50% of a PVP/VA copolymer (i.e., 3.00 weight % of 50% active PVP/VA copolymer) and 2.00% weight of a second holding polymer, namely PVP. Thus, the composition described by this Example contains 3.50 weight percent of holding polymer, an amount that is more than double the maximum amount of holding polymer present in the compositions claimed by the subject invention. If anything, that Example would direct one skilled in the art to the use of holding polymer in an amount that exceeds that of the subject claims when the holding polymer is a VP-containing holding polymer. Moreover, there is nothing in Peffly that would disclose to one skilled in the art that effective curl retention could be achieved using the low levels of VP-containing polymers set forth in the subject claims by inclusion of a hydroxyethyl cellulose and the employment of certain holding polymer to hydroxyethyl cellulose ratios.¹

Samain and Maurin fail to cure the deficiencies of Peffly. Neither citation discloses hydroxyethyl cellulose or provides any direction or teaching with respect to the claimed ratios. In fact, Maurin is directed to compositions for washing keratin materials (i.e., shampoos), as opposed to styling compositions. Additionally, as regards claims 27 and 28, it is again noted that none of Peffly, Samain or Maurin discloses a nonionic dextran as required by the subject claims.

¹ It is noted that the ratio of holding polymer to hydroxyethyl cellulose set forth in Example III of Peffly is 3.50 to 1.00, compared to claims 21, 22, 23, 24, and 25 wherein the ratio of holding polymer to hydroxyethyl cellulose is: about 1:0.7, about 1:1, about 1:1.3, about 1:1.6, and about 1:1.9, respectively.

Accordingly, allowance of the subject claims, as amended, is respectfully requested. If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone her at the number provided.

Respectfully submitted,



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